

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS

ANDREA MOOK,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 07-2152-CM
	)	
DOUGLAS GERTSEMA, et al.,	)	
	)	
Defendants.	)	

**ORDER**

This case comes before the undersigned U.S. Magistrate Judge, James P. O'Hara, on the issue of John B. Gage, II's representation of the plaintiff, Andrea Mook.

On January 27, 2009, Mr. Gage requested the Kansas Supreme Court place him on disability inactive status and stay the pending state disciplinary proceedings against him. Effective February 9, 2009, the Kansas Supreme Court placed Mr. Gage on disability inactive status and stayed the disciplinary proceedings against him while he is on disability inactive status. The Kansas Supreme Court also ordered that Mr. Gage shall not engage in the practice of law until restored to active status.

Subsequently, on March 3, 2009, pursuant to D. Kan. Rule 83.6.9(b), and based on the above-described Kansas Supreme Court order, the Disciplinary Panel of the United States District Court for the District of Kansas found Mr. Gage incapacitated by reason of mental or physical infirmity or illness and suspended him from the practice of law until further order. Mr. Gage has been informed he can apply to the Disciplinary Panel for reinstatement pursuant to D. Kan. Rule 83.6.9(d). Because Mr. Gage is now suspended from practicing law

in both state and federal court, the court *sua sponte* withdraws him as attorney of record for plaintiff in the above-captioned case.

A settlement conference in this case was scheduled for January 20, 2009 before U.S. Magistrate Judge David J. Waxse (*see* doc. 190). Shortly before the conference, however, on January 15, 2009, Mr. Gage filed a notice indicating the plaintiff and defendant Douglas Gertsema had agreed to settle their claims in this case (*see* doc. 192). Presumably because the parties reached a settlement, the settlement conference and the January 29, 2009 final pretrial conference did not occur. But no stipulation of dismissal has been filed by the parties, and nothing appears of record that the parties' reported settlement has been consummated.

The court notes that defendant Michael J. Youngken has not entered an appearance in this case. On the application of plaintiff (doc. 27), the clerk entered default against Mr. Youngken on February 6, 2008 (*see* doc. 29). Plaintiff has not filed a motion for default judgment.

This case is currently set for trial on May 4, 2009. The court anticipates the parties need only finalize their settlement and file a stipulation of dismissal. The court sets this case for a status conference on **March 31, 2009, at 9:00 a.m.**, in U.S. Courthouse, Courtroom 236, 500 State Avenue, Kansas City, Kansas. Plaintiff, as well as defense counsel of record, shall appear in person at the conference.

In consideration of the foregoing,

IT IS HEREBY ORDERED:

1. Mr. Gage is withdrawn as counsel for plaintiff.
2. This case is set for a status conference on **March 31, 2009, at 9:00 a.m.**, in U.S. Courthouse, Courtroom 236, 500 State Avenue, Kansas City, Kansas. As stated above, plaintiff, as well as defense counsel of record, shall appear in person at the conference. The court intends to ask plaintiff whether she wants to voluntarily dismiss her claim against Mr. Youngken. If the reported settlement has not been consummated and/or plaintiff does not desire to dismiss her claim against Mr. Youngken, the court anticipates setting a deadline for plaintiff to retain substitute counsel and enter an appearance, or, failing that, to show cause why her case should not be dismissed, with prejudice, for lack of prosecution.
3. Copies of this order shall be served electronically on counsel of record and Ernest C. Ballweg,<sup>1</sup> and by certified mail (return receipt requested) on plaintiff at her last known address.<sup>2</sup>

Dated this 17th day of March, 2009, at Kansas City, Kansas.

s/ James P. O'Hara  
James P. O'Hara  
U.S. Magistrate Judge

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<sup>1</sup>Pursuant to Kan. Sup. Ct. R. 221(a), and by order authorized by the Administrative Judge of the District Court of Johnson County, Kansas, it is the undersigned's belief that Mr. Ballweg has been or soon will be appointed to inventory Mr. Gage's case files.

<sup>2</sup>509 South Jackson St., Spring Hill, Kansas 66083-8910